Re HENRY LEE FOW LEE, DECD.

[O. C. J. (Murray-Aynsley, C.J.) April 24, 1953]

[Singapore — Originating Motion No. 24 of 1952]

Christian Marriage Ordinance, 1940, s. 3 — Construction — Marriage according to Chinese custom by a Chinese-Christian otherwise than in accordance with s. 3 of the Christian Marriage Ordinance.

The deceased, Henry Lee Fow Lee who was born in British North Borneo but domiciled in Singapore, died in Singapore in March 1952, intestate. Before his death, he was employed as a clerk by the British Malaya Tobacco Distributors Ltd. The only asset of the estate consists of the Provident Fund of this Company amounting to $3,710.77.

The deceased was a Christian and sometime before 1935 he lived with a woman by whom he had a child. The present whereabout of this woman is not known. Sometime in 1935 the deceased entered into a form of marriage valid by Chinese custom to one Madam Annie Tan by whom the deceased had six children. Subsequent to the marriage, the said Madam Annie Tan discovered that deceased was a Christian and professed the Catholic faith. On his death, the deceased was interred at the instance of Madam Annie Tan in Bidadari Cemetery according to Catholic rites. Sometime before his death, the deceased executed a Will wherein he described Madam Annie Tan as his legal wife. The Will was, however, not witnessed and has, therefore, to be disregarded for Probate purposes.

Madam Annie Tan petitioned by way of Originating Motion to the Supreme Court for an Order: (a) that she may be regarded as the lawful widow of the deceased Henry Lee Fow Lee; and (b) that as such she may be authorised to petition for Grant of Letters of Administration.

Held: the deceased being a Christian could only contract a marriage within the meaning of section 3 of the Christian Marriage Ordinance, 1940, which he had not done as regards the purported marriage with Madam Annie Tan, and therefore the marriage was invalid.

Case referred to:—

(1) *Chia Teck Leong & Ors. v. Estate and Trust Agencies (1927) Ltd.* (1939) M.L.J. 118.

The following cases were also cited: *R. v. Teo Kim Choon* (1948) M.L.J. 145, *Sunny Tay v. Seow Swee Neo* (1934) M.L.J. 83, *Brinkley v. A.-G.* (1890) P. 76, *Emperor v. Maha Ram* (1918) I.L.R. 40 All 403, and *Khoo Hooi Leong v. Khoo Hean Kwee* (1926) A.C. 529.

ORIGINATING MOTION.

D. C. D'Cotta for the Public Trustee.

L. Rayner for the Attorney-General.

Cur. Adv. Vult.

Murray-Aynsley, C.J.—: In this case a woman went through a form of marriage with a man who was a Christian otherwise than in accordance with section 3 of the Christian Marriage Ordinance. The words of the section are "every such marriage solemnised otherwise than as provided in this section shall be invalid." I regard the words as quite plain and unambiguous. But for the case of *Chia Teck Leong & Ors. v. Estate and Trust Agencies (1927) Ltd.*[1], I should not have considered it necessary to give a written judgment. I do so merely to put on record my disagreement with the decision on this point in that case.